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Written statement* submitted by the Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[02 September 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Saudi Arabia: Rampant executions in a justice system lacking basic safeguards

SUMMARY OF CONCERNS[1]

This statement draws from the Amnesty International briefing *Killing in the name of justice: The death penalty in Saudi Arabia* (Index: MDE 23/2092/2015), published on 25 August 2015.[2]

In August 2014, Saudi Arabia executed 26 people in a sudden surge in executions that has persisted since then, with the total number of executions in the first six months of 2015 reaching 102. In less than a year, from August 2014 to June 2015, the Saudi Arabian authorities executed at least 175 individuals, an average of one person every two days.

Saudi Arabia remains one of the most prolific executioners in the world. Between January 1985, the earliest year when information on executions is available, and June 2015 it has executed at least 2,208 persons. Almost half of them were foreign nationals, with the majority being migrant workers with no knowledge of Arabic, who were often denied, among other things, adequate interpretation assistance and the right to contact and receive assistance from the embassy or consulates of their country. Over one third of the executions between January 1985 and June 2015 were carried out for offences that do not meet the threshold of "most serious crimes" for which the death penalty can be imposed under international law. Most of these crimes, such as drug-related offences, are not mandatorily punishable by death according to the authorities' interpretation of Islamic Shari'a law.

Saudi Arabia also continues to sentence to death and execute individuals for crimes committed when they were below 18 years of age, and persons with mental and intellectual disabilities in violation of international law.

Too often trials in death penalty cases are held in secret and their proceedings are unfair and summary with no legal assistance or representation through the various stages of detention and trial. Defendants are also too often denied the right to a meaningful appeal and may be convicted solely on the basis of "confessions" obtained under torture or other ill-treatment, duress or deception.

The situation is compounded by the fundamentally flawed nature of Saudi Arabian legal and judicial safeguards. In terms of the legal provisions, the lack of specificity in the definitions of most crimes render them open to wide interpretation by the judicial authorities.[3]

SCOPE OF THE DEATH PENALTY

The scope of the death penalty in Saudi Arabian laws is a major cause for concern. In both Shari'a and statutory laws, offences that are not internationally considered "most serious crimes", such as drug-related offences, are punishable by death.[4] There has been a significant rise in executions for drug-related offences recorded by Amnesty International in the last past three years. Whereas in 2010 and 2011, less than 4% of recorded executions for that year were for drug-related offences, in 2012 the equivalent figure rose to almost 28%, followed by 32% in 2013. In 2014 and 2015 (up to June), the percentage of recorded executions that were for drug-related offences was 47% for each period.[5]

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[1] Amnesty International also submitted a written statement in May 2015 to the 29th session of the Human Rights Council which addressed, among other issues, its concerns on the death penalty in Saudi Arabia. See: *Saudi Arabia: Is this what is to be expected of a Human Rights Council member (Part 2)?* https://www.amnesty.org/en/documents/mde23/1647/2015/en/.

[2] Amnesty International, *Killing in the name of justice: The death penalty in Saudi Arabia* (Index: MDE 23/2092/2015), August 2015, pp. 5-7 (Amnesty International, *Killing in the name of justice),* https://www.amnesty.org/en/documents/mde23/2092/2015/en/.

[3] Amnesty International, *Killing in the name of justice: The death penalty in Saudi Arabia* (Index: MDE 23/2092/2015), August 2015, pp. 5-7 (Amnesty International, *Killing in the name of justice).*

[4] Amnesty International, *Killing in the name of justice,* p. 17.

[5] Amnesty International, *Killing in the name of justice,* pp. 21-24.

Saudi Arabia also continues to impose the death penalty on those convicted of "offences" that are not recognizably criminal offences under international human rights law. These include apostasy, adultery, witchcraft and sorcery.[6]

JUVENILE OFFENDERS

In the past two years, Saudi Arabia has executed at least three juvenile offenders, in blatant disregard of its obligations as a state party to the Convention on the Rights of the Child. Both the Convention and customary international law prohibit the use of the death penalty on anyone aged under 18 at the time of the crime.

The Saudi Arabian authorities have also executed individuals whose age was considered to be in dispute at the time of their alleged offence.[7]

PERSONS WITH MENTAL AND INTELLECTUAL DISABILITIES

In the case of persons with mental or intellectual disabilities, Saudi Arabian laws provide little or no guidance as to how commonly held understandings of mental and intellectual disabilities and their effect on criminal responsibility are to be applied as safeguards in practice. This, together with inadequate legal representation, the mandatory imposition of the death penalty and lack of resources for independent medical assessments before and after sentencing means that persons with mental and intellectual disabilities have been sentenced to death and, in some cases, executed.[8]

FOREIGN NATIONALS

Foreign nationals, particularly migrant workers from disadvantaged economic backgrounds who moved to Saudi Arabia from countries in Africa, the Middle East and Asia, comprise a high and disproportionate number of those executed in Saudi Arabia. Of the total 2,208 executions recorded between January 1985 and June 2015, at least 1,072, or some 48.5%, were of foreign nationals.[9] The majority of them are migrant workers with no knowledge of Arabic, the language in which they are questioned while in detention and in which trial proceedings are carried out. They are often denied adequate interpretation assistance. Their country's embassies and consulates are not always promptly informed of their arrest, or even of their executions. In some cases neither are their families notified in advance of the execution nor are their bodies returned to them for funeral rites. During their trial, their foreign nationality and the fact that they often lack Arabic language skills place them in a particularly disadvantageous position.[10]

LACK OF ACCESS TO LAWYERS

In practice, one of the most common violations of fair trial guarantees faced by detainees is the lack of access to lawyers. Although Saudi Arabian laws clearly stipulate the right of defendants to have lawyers from the time of pre-trial detention and interrogations, it is rarely granted to defendants. Amnesty International is aware of cases where defendants explicitly requested a lawyer, and they were either denied that right without explanation, told that bringing in a lawyer would complicate matters, or told that they could only have a lawyer when they went to court, in clear violation of Saudi Arabian laws.[11]

Frequently, defendants and their lawyers are denied access to the court documents even after being sentenced by a first instance court. Amnesty International is aware of cases in which the authorities have resorted to forcing lawyers to sign pledges not to share court documents or discuss the case in public, while at the same time leaking information to state-

[6] Amnesty International, *Killing in the name of justice*, p. 17.
[7] Amnesty International, *Killing in the name of justice*, pp. 37-38.
[8] Amnesty International, *Killing in the name of justice*, pp. 38-40.
[9] Amnesty International, *Killing in the name of justice*, pp. 24-25.
[10] Amnesty International, *Killing in the name of justice*, p. 25.
[11] Amnesty International, *Killing in the name of justice*, pp. 30-32.

controlled media and thereby ensuring a one-sided version of events is presented in public. This practice clearly undermines the presumption of innocence and consequently the fairness of the trial.[12]

"CONFESSIONS" EXTRACTED THROUGH TORTURE

Forced "confessions" extracted under torture or other ill-treatment continue to be frequent in the Saudi Arabian justice system and are commonly admitted as evidence in trial. In many cases, such "confessions" form the basis of the prosecution and are often the sole evidence for convictions. This problem is facilitated by the absence of guarantees that enable defendants to challenge adequately self-incriminating statements extracted through torture and other ill-treatment or deception.[13]

In some cases, the authorities threatened defendants with torture or punishment if they were to retract their confession or deny it. Sometimes, the authorities also threaten to punish and torture their family members.[14]

RECOMMENDATIONS

Amnesty International urges Human Rights Council members and observer states to raise the concerns in this statement in Council debates and in bilateral dialogues with the Saudi Arabian delegation; and in particular to call on Saudi Arabia, pending full abolition of the death penalty, to:

- Restrict the scope of the death penalty to crimes involving intentional killing, in line with international law and standards;
- Stop applying the death penalty on anyone under the age of 18 at the time of the offence, in accordance with Saudi Arabia's obligations under the Convention on the Rights of the Child and international standards;
- Stop applying the death penalty on anyone suspected of suffering from mental and intellectual disabilities;
- Ensure that foreign nationals arrested, detained or imprisoned have adequate access to consular and interpretation services;
- Ensure rigorous compliance in all death penalty cases with international standards for fair trials; at least equal to Article 14 of the International Covenant on Civil and Political Rights, and without recourse to the death penalty;
- Ensure that statements extracted under torture or other ill-treatment are not used as evidence in criminal proceedings, except those brought against suspected perpetrators of torture or other ill-treatment;
- Ensure that all allegations of torture and other ill-treatment used to extract "confessions" are promptly and impartially investigated, and those found guilty of committing them are held to account; and
- Establish an official moratorium on executions with a view to abolishing the death penalty.

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[12] Amnesty International, *Killing in the name of justice*, p. 31.
[13] Amnesty International, *Killing in the name of justice*, pp. 33-34.
[14] Amnesty International, *Killing in the name of justice*, p. 34.